

Noted by the Board of Professional
Engineers and Land Surveyors
Date 12/15/11

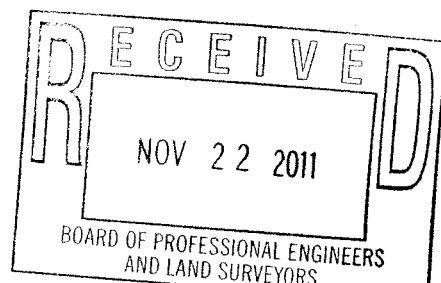
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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF PROFESSIONAL ENGINEERS
AND LAND SURVEYORS

IN THE MATTER OF THE LICENSE OF	:	
MICHAEL J. SPILLANE, P.E., P.L.S.	:	Administrative Action
License No. 24GB01756900	:	
TO PRACTICE PROFESSIONAL ENGINEERING	:	CONSENT ORDER
AND PROFESSIONAL LAND SURVEYING IN	:	OF VOLUNTARY SURRENDER
THE STATE OF NEW JERSEY	:	OF LICENSURE
	:	

THIS MATTER was opened to the New Jersey State Board of Professional Engineers and Land Surveyors ("Board") upon receipt of information that Respondent, Michael J. Spillane, P.E., P.L.S., engaged in professional misconduct.



More specifically, the record reveals that Respondent prepared a "Final Subdivision Plat" ("Plat") dated February 1, 2006, last revised March 9, 2010, for his client, Cerbo's Nursery, in Parsippany-Troy Hills, New Jersey. The Plat referenced a survey dated May 9, 2005. However, a separate survey does not exist; but rather, the survey information has been incorporated into the Plat. Thus, this Plat served as both a survey and subdivision plan. Thereafter, on or about August 24, 2010 the Plat was filed in the Morris County Clerk's Office in Book 8, Page 3 pursuant to the Map Filing Law. At an investigative hearing before the Board, Respondent admitted that the Plat was incomplete and inaccurate and, further, did not meet the requirements of the Map Filing Law.

Respondent further testified that his company, Spillane Engineering Associates, L.L.C., ("Spillane Engineering") was acquired by Omland Engineering Associates ("Omland") in 2010 and that he is currently employed by Omland. While an employee of Omland, Respondent admitted that on three (3) occasions he permitted Omland employees to revise, electronically sign, and place his seal on plans that he previously prepared as President of Spillane Engineering. However, Respondent testified that he failed to review the revised plans for accuracy and completeness prior to issuance.

As a result of the foregoing, the Board has determined that Respondent is in violation of:

1. N.J.S.A. 45:1-21(h) and N.J.A.C. 13:40-5.1(c) and (m) in that Respondent admitted that the Plat was incomplete and inaccurate. More specifically, the following information was omitted from, or incomplete on, the Plat:

A. Metes and bounds of the property in violation of N.J.A.C. 13:40-5.1(f) (5);

B. Property corner markers, both found and set, and the relation of existing markers to the property corner or to the boundary lines, in violation of N.J.A.C. 13:40-5.1(f) (6);

C. Street and street names and widths for the streets abut or adjoin the property in question in violation of N.J.A.C. 13:40-5.1(f) (7);

D. Fences, tree rows, hedges, streams, ditches, building locations, easements and any physical occupation influencing property line determination in violation of N.J.A.C. 13:40-5.1(f) (9);

E. In connection with the items which were omitted pursuant to N.J.A.C. 13:40-5.1(g), Respondent failed to indicate the specific omitted items in a factual way in violation of N.J.A.C. 13:40-5.1(h).

2. N.J.S.A. 45:1-21(e) in that Respondent engaged in professional misconduct because the Plat filed in the Morris County Clerk's Office did not meet the requirements of the Map Filing Law

as set forth in N.J.S.A. 46:23-9.11((d), (j), (k), (m), (n) and (r).

3. N.J.S.A. 45:1-21(e) and N.J.A.C. 13:40-9.1(c)(2) in that Respondent engaged in professional misconduct because he failed to render regular and effective supervision in connection with 3 plans.

4. N.J.S.A. 45:1-21(h) and N.J.A.C. 13:40-8.3(a)(5) in that Respondent permitted an electronic signature, rather than his manually hand written signature, to be placed in the title block on the 3 plans and N.J.A.C. 13:40-8.3(a)(6) in that the required Certificate of Authorization number was not in the title block.

IT NOW APPEARING that the parties wish to resolve this matter without recourse to formal proceedings; and that the Respondent hereby waives any right to a hearing in this matter; and the Board finding the within Order adequately protects the public's health, safety and welfare; and for good cause shown;

IT IS ON THIS 15th day of December, 2011, **ORDERED AND AGREED AS FOLLOWS:**

1. Respondent shall immediately surrender his license to practice professional land surveying in the State of New Jersey to be deemed a revocation of license with prejudice to reinstatement. Any practice of professional land surveying in this State, including, but not limited to, offering and/or providing

professional land surveying services, shall constitute grounds for the charge of unlicensed practice.

2. Respondent's license to practice professional engineering shall be placed on probation for three (3) years effective on the filing date of this Consent Order. During the probationary period, but no later than six (6) months after the filing date of this Consent Order, Respondent shall provide proof of successful completion, to the Board's satisfaction, of a minimum of eight (8) hours of continuing education in the area of ethics, which shall be pre-approved by the Board. Said continuing education shall not count towards any biennial renewal licensure period. Failure to successfully complete this requirement shall constitute a violation of this Consent Order.

3. During the probationary period, Respondent agrees that in the event the Board receives reliable information that he violated any provision of this Consent Order, or is determined to be in violation of any statute and/or regulation which the Board administers, then Respondent's license to practice professional engineering in the State of New Jersey shall be automatically suspended without a hearing, in addition to any other limitations or restrictions as the Board deems appropriate. Additionally, Respondent has an affirmative duty to immediately inform the Board in writing of any potential or actual violations. Within five (5) days of notification of the suspension, Respondent may seek a

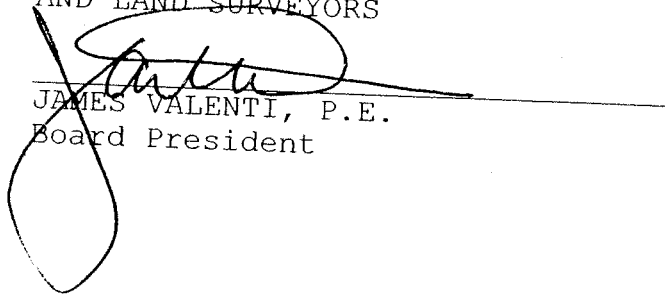
hearing by written application to the Board limited to the sole issue of whether a violation of this Consent Order has occurred.

4. Within sixty (60) days of the filing date of this Consent Order, Respondent shall provide proof to the Board's satisfaction that he provided written notification of the omissions and inaccuracies in the Plat together with a copy of this fully executed Consent Order of Voluntary Surrender of Licensure to: his client, Cerbo's Nursery; Parsippany-Troy Hills Township Municipal Clerk, Municipal Engineer, Tax Assessor, Tax Collector, and Secretary of the Zoning and Planning Boards; Morris County Planning Board; and the Morris County Clerk.

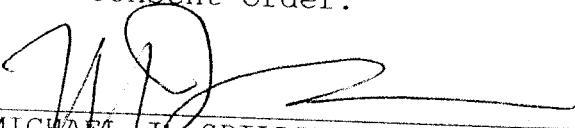
5. Upon signing this Consent Order, Respondent shall pay investigative costs of One Hundred Fifty Dollars (\$150.00). Payment shall be made by certified check or money order payable to the "State of New Jersey" and forwarded to the State Board of Professional Engineers & Land Surveyors, 124 Halsey Street, 3rd Floor, Newark, New Jersey 07102.

STATE BOARD OF PROFESSIONAL ENGINEERS
AND LAND SURVEYORS

By:


JAMES VALENTI, P.E.
Board President

I have read and I understand
this Consent Order and agree to be
bound by its terms. I further
hereby consent to the entry of
this Consent Order.



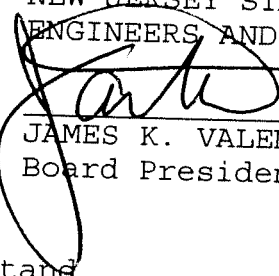
MICHAEL J. SPILLANE, P.E., P.L.S.
Respondent

3. During the probationary period, but no later than six (6) months after the filing date of this Consent Order, Respondent shall provide proof of successful completion, to the Board's satisfaction, of six (6) hours of continuing education in the area of ethics which shall be pre-approved by the Board and which cannot be utilized towards the fulfillment of the continuing education requirements for the 2012-2014 biennial renewal period. Failure to successfully complete this requirement shall constitute a violation of this Consent Order and probation.

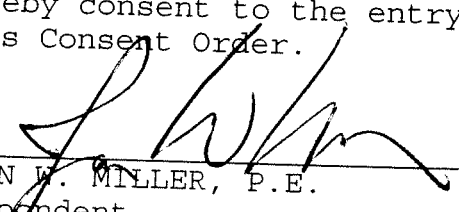
4. Upon signing this Consent Order, Respondent shall immediately pay investigative costs of Nine Hundred Thirty Four Dollars and 22/100 (\$934.22). Payment shall be made by certified check or money order payable to the "State of New Jersey" and forwarded to the State Board of Professional Engineers & Land Surveyors, 124 Halsey Street, 3rd Floor, Newark, New Jersey 07102.

NEW JERSEY STATE BOARD OF PROFESSIONAL
ENGINEERS AND LAND SURVEYORS

By:


JAMES K. VALENTI, P.E.
Board President

I have read and I understand
this Consent Order and agree to be
bound by its terms. I further
hereby consent to the entry of
this Consent Order.


JOHN W. MILLER, P.E.
Respondent